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10/734,976

12/15/2003

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07/13/2007

EXAMINER

THOMASSON, MEAGAN J

ART UNIT

PAPER NUMBER

3714

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/734,976

Applicant(s)

GAUSELMANN, MICHAEL

Examiner

Meagan Thomasson

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-76 is/are pending in the application.
- 4a) Of the above claim(s) 1-8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 9-76 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☒ Certified copies of the priority documents have been received in Application No. 09/491,779.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 9/8/05, 9/30/05.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

The examiner acknowledges the addition of claims 9-76. Claims 1-8 have been canceled.

Drawings

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: Reference characters 14,16,17,18,19 and 23 are shown in Fig. 2 but not mentioned in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d), or amendment to the specification to add the reference character(s) in the description in compliance with 37 CFR 1.121(b) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Additionally, the drawings are objected to because Fig. 2 is merely a set of boxes with numbers. Components should be labeled in such a manner that those reading the drawing can determine the basic components of the system. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to

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avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 11-14,16-19 are rejected under 35 U.S.C. 112 as being indefinite. The claims are replete with features lacking sufficient antecedent basis. For example:

- Claim 11 recites "the winning values" in line 7 of the claim.
- Claim 11 recites "the intermediate state" in line 13 of the claim.
- Claim 16 recites "the entertainment automats are networked together" in lines 1-2 of the claim. Claim 7, from which claim 8 depends, recites only

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one entertainment automat, therefore there is lack of antecedent basis for multiple automats as recited in claim 8.

- Claim 17 recites "the coin actuated automats disposed in the network". There is lack of antecedent basis for multiple automats as well as for a network.
- Claim 18 recites "monitoring the total playing time" in line 4 of the claim, and later recites "the complete game time" in line 5. The examiner is interpreting these to be the same, however there is insufficient antecedent basis for either limitation in the claims.
- Claim 19 recites "the card storage" in line 5 of the claim.

The examiner requests that the applicant review all claims to ensure antecedent basis for all disclosed limitations.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 9-76 are provisionally rejected on the ground of nonstatutory double patenting over claims 1-68 of copending Application No. 09/491,779. This

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is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application since the referenced copending application and the instant application are claiming common subject matter, as follows: Claims 9-76 of the instant application are identical to those of claims 1-68 of Application No. 09/491,779. Thus, the two sets of claims do not constitute patentably distinguishable subject matter.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.

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2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 9-76 are rejected under 35 U.S.C. 103(a) as being obvious over Gauselmann (WO 97/49073) in view of Walker et al. (US 6,248,016 B1). For purposes of this action, Examiner will use the patent (USPN 6,089,980), which is a translation of the PCT publication. All citations will be made with reference to locations in the US Patent.

Regarding claims 9,35,42-54 Gaulseman teaches a method for operating a coin actuated entertainment automat (2a) comprising placing a coin into a coin acceptance device (12) of an entertainment automat; testing the coin in a coin testing device (Col. 6, 10); displaying symbols on a symbol display device (8), wherein a displayed symbol combination comprises several symbols (Fig. 1 shows several symbols displayed on a display device 8) and wherein upon reaching of a predetermined credit balance in a credit balance counter disposed on the side of the control unit a symbol combination is displayed with the symbol display device (i.e., when a player deposits enough money, he can play the game – this is how slot machines operate). Gauselmann teaches controlling the course of the game with a control unit including a microcomputer (9) and a pseudorandom number generator (216). Gauselmann teaches renewing the symbols within a predetermined time window until a winning carrying symbol combination is reached, and accumulating the obtained winnings in the credit balance counter – i.e., Gauselmann teaches determining a winner and paying winnings like any other slot machine.

Gauselmann does not teach influencing the course of the game by an operational element disposed on the front side of the entertainment automat or substituting a symbol by another randomly determined symbol. This is simply a description of the notoriously well known game of draw poker. In draw poker, the player uses controls on the console to determine which cards to hold. This is influencing the course of the game by an operational element disposed on the front side of the entertainment automat. The gaming machine then dispenses new cards for those not held. This is substituting a symbol by another randomly determined symbol. Walker teaches draw poker (abstract). Draw poker machines are among the most popular gaming machines in the industry. It would have been obvious to one of ordinary skill in the art at the time of the invention to have modified the slot machine of Gauselmann in view of the draw poker feature of Walker to influence the course of the game by an operational element disposed on the front side of the entertainment automat and substitute a symbol by another randomly determined symbol (i.e., implement a draw poker game) in order to take advantage of the well known popularity of draw poker. Further, the inventions are analogous in that they are both slot machines in the player entertainment field of endeavor.

Regarding claims 10,16,27 and 36, Gauselmann teaches networking a second entertainment automat to the first entertainment automat (Fig. 1) and simultaneously switching the played entertainment automats into a uniform game mode upon reaching of a predetermined symbol combination or upon reaching of a predetermined credit balance state of a common credit balance counter (col. 2, 30-37). Gauselmann teaches

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determining in a game mode the entertainment automat, which has reached the highest winning value within a time window predetermined by the control unit and coordinating the winning value to that entertainment automat, which entertainment automat has reached the highest winning within the time limited game mode. This is the rank sequence determination described at col. 2, lines 39-43.

Regarding claims 11,19,21,23,26 Gauselmann teaches the invention substantially as claimed. Gauselmann teaches a timed game or series of games (col. 2, lines 37-39). Gauselmann fails to teach the details of draw poker – drawing cards, determining if the card are a winning hand, indicating which cards to hold, drawing new cards for discarded cards, etc. As noted above, these details are a conventional part of the draw poker game taught by Walker.

Regarding claims 12,20,44 Gauselmann teaches determining if a special symbol combination or a jackpot winning value has been reached after inserting payment into the automatic entertainment automat. This is the jackpot trigger value discussed in col. 2, lines 31-37.

Regarding claims 13,29,38,39 Gauselmann teaches networking a second entertainment automat to the first entertainment automat (Fig. 1). Gauselmann teaches determining which one of the entertainment automats assumes a master function and determining which one of the entertainment automats assumes a slave function (col. 7, lines 13-18). Gauselmann teaches determining if a jackpot filling level has reached a predetermined release amount, starting a jackpot game at the entertainment automat performing the slave function, waiting until the slave is ready, activating the game time

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for the entertainment automats, randomly drawing all cards (i.e. playing one or more games), determining if a game time has ended, collecting the game results of the slave entertainment automat in the master entertainment automat, distributing of the game results to the slave entertainment automat by the master entertainment automat (col. 4, lines 64-col. 5, line 5), calculating of the winning amount, and displaying the winning amount (col. 8-9).

Regarding claim 14, Gauselmann discloses teaching a readiness signal to the master entertainment automat and waiting by the slave entertainment automat for an activation of the game time through the master entertainment automat (col. 7-8).

Regarding claim 15, see claims 9,11 and 12.

Regarding claim 17, see claims 9 and 10.

Regarding claim 18, Gauselmann discloses monitoring a credit balance state with the first operational block exhibiting a game stake, i.e. a credit meter (Fig. 1, 3), monitoring the total playing time (col. 8, lines 30-39), determining winning symbols during the complete game time by a control unit, illustrating and displaying the randomly determined winning symbols with a symbol display device (i.e. how any slot machine functions), and determining a remaining residual game time (col. 8, lines 65-66). As previously discussed, Walker discloses operational elements furnished on the front side of the entertainment automat.

Regarding claims 12,25, Gauselmann teaches initiating a network by actuating the power switch of each entertainment automat (col. 6, lines 66-67), assuming of the master function by one of the entertainment automats, wherein the master function

comprises essentially that a coordination of the entertainment automats present in the network is performed with respect to the collection of data through the counter state of the jackpot amount and the release of a common special game, which takes place at all entertainment automats present in the network at the same time, switching the second entertainment automat, present in the network to a slave function, randomly determining a symbol combination in an operational block and displaying the symbol combination in the symbol display device in case of a sufficient credit balance state, transferring an adjustable shared part amount of the game stake of each base game to a common jackpot counter, checking the counter state of the jackpot counter in a branching block following to a determination of the winning value in the base game, sending from the master a control signal to all other entertainment automats present in the network if the predetermined jackpot counter state is reached or surpassed, wherein the slave switch to the supplemental game based on the control signal after termination of the base game, monitoring in an operational block, if an okay signal was returned by all slaves, starting the supplemental game at the same time in all participating coin actuated entertainment automats (col. 7-9).

Regarding claim 24, see claims 4 and 5.

Regarding claim 28, Gaulseman and Walker teach the first entertainment automat is furnished with a first additional operating element, wherein the first additional operating element is associated to each presented winning symbol and each presented winning symbol can be held in the following by action of the first operating element, and wherein the first entertainment automat includes a first separate processor and first

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software; wherein the second entertainment automat is furnished with a second additional operating element, wherein the second additional operating element is associated to each presented winning symbol and each presented winning symbol can be held in the following by action of the second operating element, and wherein the second entertainment automat includes a second separate processor and second software – i.e. each gaming machine is self-contained (Fig. 1, col. 4, lines 59-63).

Regarding claim 30, Gauselmann teaches that the entertainment automat performing the master function accumulates a jackpot amount as an adjustable shared part of the game stake of each base game, and wherein the entertainment automat performing the master function scans individual game results and subdivides the jackpot winning amount (col. 8, lines 20-30; col. 9, lines 1-47).

Regarding claim 31, Gauselmann teaches a display means furnished as a central large display field (Fig. 1, [3]), wherein the display means displays the temporary jackpot value.

Regarding claim 32, Fig. 1 discloses two linked gaming machines containing the components as listed in col. 3, lines 40-59 and depicted in Fig. 2.

Regarding claim 33, Gauselmann discloses that the first symbol display device displays the temporary jackpot value and the second symbol display device displays the temporary jackpot value (i.e., all game machines display the temporary jackpot value on the display in the lower left hand corner of the top box as shown in Fig. 1). The first and second control units perform an automatic recognition for determining which control unit assumes a master function and which control unit assumes a slave function (col. 6, line

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63 – col. 7, line 20). A jackpot pre-release value is set and the jackpot is frozen upon reaching of the jackpot pre-release value (col. 8, lines 6-20). A jackpot payout game is -started at the first control unit and at the second control unit (col. 8, lines 30-40).

Regarding claim 34, Gauselmann discloses all automats contain a symbol display device as well as a microprocessor (col. 6).

Regarding claim 37, Gauselmann discloses delivering a percentage of each game stake to a jackpot, determining a reaching or surpassing of a jackpot release value; activating a special jackpot game sequence upon reaching or surpassing of the jackpot release value, which jackpot game sequence is the same at each used networked entertainment automat; giving to each player of each used networked entertainment automat the possibility to achieve a predetermined result within a predetermined time period, wherein the player has to reach a winning symbol combination predetermined by the entertainment automat after an arbitrary number of games during the predetermined time period (col. 8, lines 6-40).

Regarding claims 41-54, Gauselmann substantially discloses the invention as claimed. In the primary embodiment, Gauselmann discloses the primary game to consist of evaluating horse race contestants. However, Walker discloses the draw poker gaming machine embodiment, as described above, wherein a player's hand of cards is evaluated for pre-determined winning outcomes, including a royal flush.

Regarding claim 55-58, in addition to the invention as described above, Gauselmann discloses a third entertainment automat (Fig. 1) wherein one of the entertainment automats assumes a master function, one of the entertainment automats

assumes a first slave function, and one of the entertainment automats assumes a second slave function (col. 7, lines 15-19). All of the entertainment automats contain the hardware disclosed in col. 3, lines 40-58 and Fig. 2. The method of operation of the plurality of networked entertainment apparatuses is identical regardless of the number of machines associated with the network. That is, the draw poker game and progressive bonus game will be played in the same manner among any number of gaming devices that may be connected to the network.

Regarding claims 59,60, in addition to the invention described above, Gauselmann discloses that if the automat performing the master function experiences a failure, a slave will automatically assume the master function (col. 7, lines 25-29).

Regarding claim 62, in addition to the invention as described above, Gaulseman discloses furnishing a first control circuit to the first entertainment automat and having a first communications board and a first microcomputer with a first serial interface; furnishing a second control circuit to the second entertainment automat and having a second communications board and a second microcomputer with a second serial interface; wherein the first entertainment automat assumes the master function; controlling a display means of a jackpot and a data exchange and data balancing of the entertainment automat disposed in the communications network by the first communications board; a first connection running from the first communications board to the first serial interface; a second connection running from the second communications board to the second serial interface (col. 6).

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Regarding claims 63,69 Gauselmann discloses an RS-232 serial interface (col. 6, lines 32-33).

Regarding claim 64, in addition to the invention as described above, Gauselmann discloses furnishing the first communications board with a first self-contained central processing unit and with a third serial interface disposed on the side of the first central processing unit; furnishing the second communications board with a second self-contained central processing unit and with a fourth serial interface disposed on the side of the second central processing unit; coordinating to the first central processing unit first fixed value memory storage and a first battery buffered operating data storage; coordinating to the second central processing unit a second fixed value memory storage and a second battery buffered operating data storage; furnishing a first connection between the first central processing unit, first memory components and a first serial communications controller with first serial ports by way of a first address decoder and a first I/O decoder and a first bus; furnishing a second connection between the second central processing unit, second memory components and a second serial communications controller with second serial ports by way of a second address decoder and a second I/O decoder and a second bus; connecting a first serial port of the first communications controller under connection of a first power amplifier to the first display means formed as a first large display field, with which a temporary jackpot stand is displayed; connecting an external micro-computer to an interface of the first communications controller; furnishing an interface adapter connected at a serial interface of the first communications controller, wherein the interface adapter comprises

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essentially an optical coupler for galvanic separation and a power stage disposed successively to the optical coupler; connecting the network cabling is connected to the power stage (col. 6).

Regarding claims 65,72, in addition to the invention as described above, Gauselmann discloses setting a first and second individual address number through a rotary switch (col. 6, lines 65-67).

Regarding claims 66,67,73-75 Gauselmann discloses switching on the entertainment automats, performing an automatic recognition as to which entertainment automat assumes a master function or a slave function, having the automats wait for a predetermined time period for a recognition signal of the master, if said signal does not appear, sending a master function assumption signal by the first communications board after a second predetermined time period, sending the master function assumption signal from the first entertainment automat with a lowest address number, confirming a receipt of this signal by the second communications board, in col. 6, line 62 – col. 7, line 57).

Regarding claim 71, Gauselmann discloses an external computer, an interface adapter comprising an optical coupler for galvanic separation and a first power stage disposed successively to the optical coupler, and network cabled connected to the power stage (col. 6, lines 52-61).

Regarding claim 76, Gauselmann discloses an external computer performing a configuration as to what percentage of a game stake case is to be delivered to the jackpot through an interface (col. 7, lines 50-55).

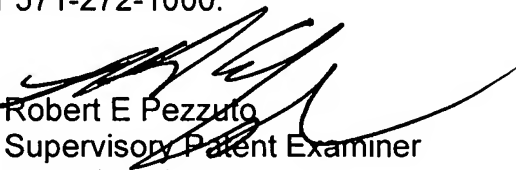
Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Pertinent prior art includes Bridgeman et al. (US 5,033,744) and Gauselmann (US 6,491,583 B1, US 5,702,302, US 5,785,595).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Meagan Thomasson whose telephone number is (571) 272-2080. The examiner can normally be reached on M-F 830-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6996. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Robert E Pezzuto
Supervisory Patent Examiner
Art Unit 3714

Meagan Thomasson
July 6, 2007